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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/381,561	09/17/1999	JAMES RICHARD JACKSON	2426-1-001	4115

7590 06/04/2002

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[REDACTED] EXAMINER

CHIN, CHRISTOPHER L

ART UNIT	PAPER NUMBER
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1641

DATE MAILED: 06/04/2002

22

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/381,561	Applicant(s) Jackson
	Examiner Chris Chin	Art Unit 1641
		
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
<p>THE REPLY FILED <u>5/13/02</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.</p>		
THE PERIOD FOR REPLY [check only a) or b)]		
<p>a) <input type="checkbox"/> The period for reply expires _____ months from the mailing date of the final rejection.</p> <p>b) <input type="checkbox"/> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).</p>		
<p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p>		
<p>1. <input checked="" type="checkbox"/> A Notice of Appeal was filed on <u>May 7, 2002</u>. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.</p>		
<p>2. <input type="checkbox"/> The proposed amendment(s) will not be entered because:</p> <ul style="list-style-type: none"> (a) <input type="checkbox"/> they raise new issues that would require further consideration and/or search (see NOTE below); (b) <input type="checkbox"/> they raise the issue of new matter (see NOTE below); (c) <input type="checkbox"/> they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) <input type="checkbox"/> they present additional claims without canceling a corresponding number of finally rejected claims. 		
<p>NOTE: _____</p>		
<p>3. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): _____ _____</p>		
<p>4. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).</p>		
<p>5. <input checked="" type="checkbox"/> The a) <input type="checkbox"/> affidavit, b) <input type="checkbox"/> exhibit, or c) <input checked="" type="checkbox"/> request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See attachment</u> _____</p>		
<p>6. <input type="checkbox"/> The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.</p>		
<p>7. <input type="checkbox"/> For purposes of Appeal, the proposed amendment(s) a)<input type="checkbox"/> will not be entered or b)<input type="checkbox"/> will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.</p> <p>The status of the claim(s) is (or will be) as follows:</p>		
<p>Claim(s) allowed: _____</p>		
<p>Claim(s) objected to: _____</p>		
<p>Claim(s) rejected: _____</p>		
<p>Claim(s) withdrawn from consideration: _____</p>		
<p>8. <input type="checkbox"/> The proposed drawing correction filed on _____ is a)<input type="checkbox"/> approved or b)<input type="checkbox"/> disapproved by the Examiner.</p>		
<p>9. <input type="checkbox"/> Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____</p>		
<p>10. <input type="checkbox"/> Other:</p>		
CHRIS CHIN PRIMARY EXAMINER ART UNIT 1641		

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DETAILED ACTION

1. In response to the 102 rejection over Chow (U.S. Patent 5,955,028), Applicants argue that Chow does not disclose a detachable recording part, as presently claimed. Applicants argue that in the device of Chow the recording part (i.e. the base unit) does more than record the assay information which is prohibited by the instant claims.

The base unit in Chow is detachable as required by the instant claims. Column 5, lines 25-48, of Chow discloses that the base unit ~~may~~ include all digital and/or analog circuitry as well as user input/output interfaces which are necessary for controlling an assay and producing assay results from the system. The base unit can also contain the interface and digital circuitry of a computer to provide all of the capabilities of a conventional digital computer to the base unit. Thus, it is apparent that the base unit of Chow can perform the function of recording assay information because the base unit is essentially a computer. The limitation of only recording information without analyzation of the assay information is seen as an intended use of the recording part/base unit. As noted in the final rejection, an intended use is not accorded any patentable weight. As long as the base unit of Chow is able to perform the function of recording assay information, that is sufficient to anticipate the claimed recording part.

2. With respect to the 103 rejection over Hillman in view of Galen or Phillips, Applicants argue that neither Galen or Phillips discloses a detachable recording part which only records the

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assay information without analyzation thereof in a form suitable for onward transmission for subsequent processing and analysis at a remote processing site.

Both Galen and Phillips disclose microprocessors (i.e. recording part) that are detachable and are capable of storing assay data. The microprocessors of Galen and Phillips are capable of performing the function of recording assay information as required by the instant claims. The limitation of only recording information without analyzation of the assay information is seen as an intended use of the recording part/microprocessor. An intended use is not accorded any patentable weight.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris Chin whose telephone number is 308-3991. The examiner can normally be reached on Monday-Thursday from 9:30 am to 7:00 pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le, can be reached on (703) 305-3399. The fax phone number for the organization where this application or proceeding is assigned is 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0196.

cchin/cc
June 3, 2002

Christopher L. Chin
CHRISTOPHER L. CHIN
PRIMARY EXAMINER
GROUP 1800/1641